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5 Attorney for Defendant  
6 FRANCISCO MEDINA CASTANEDA

7 UNITED STATES DISTRICT COURT  
8 EASTERN DISTRICT OF CALIFORNIA

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 FRANCISCO MEDINA CASTANEDA,

13 Defendant.

No. 2:03-CR-0549-01 WBS

**STIPULATED MOTION AND ~~[lodged]~~ ORDER  
TO REDUCE SENTENCE PURSUANT TO  
SECTION 404 OF THE FIRST STEP ACT, P.L.  
115-391**

Hon. William B. Shubb, Jr.

14  
15 Defendant, Francisco Medina Castaneda, through his attorney, John Balazs, and plaintiff,  
16 United States, through its counsel, Assistant U.S. Attorney Jason Hitt, hereby stipulate that the  
17 Court should enter an amended judgment reducing Castaneda's sentence to 168 months. The  
18 parties further stipulate as follows:

19 1. In 2005, defendant was convicted of conspiracy to distribute cocaine and cocaine  
20 base and possession with intent to distribute cocaine base. PSR, ¶ 1. The jury also determined  
21 that count 1 involved at least 250 grams of cocaine base and count 2 involved at least 100 grams  
22 of cocaine base. Docket 105.

23 2. At sentencing in 2005, the district court adopted the presentence report's finding  
24 that Castaneda's base offense level was 34 based on a finding of 269.92 grams of cocaine base.  
25 Docket 210-1, at 13; PSR, ¶ 26. (There was also a small amount of cocaine that had no impact in  
26 the guideline scoring. PSR, ¶ 26). After enhancements, the guideline range was calculated as  
27 324-405 months and the district court sentenced Castaneda to the low end of the range, or 324  
28 months. PSR, ¶ 61. Because the government filed an Information under 21 U.S.C. § 851

1 charging a prior felony drug conviction, Castaneda's sentencing range was 20 years to life. 21  
2 U.S.C. § 841(b)(1)(A).

3 3. On appeal, the Ninth Circuit affirmed Castaneda's convictions, but vacated his  
4 sentence and remanded for resentencing in light of *Kimbrough v. United States*, 552 U.S. 85  
5 (2007). *See United States v. Castaneda*, 511 F.3d 1246 (9th Cir. 2008). Before resentencing, the  
6 U.S. Sentencing Commission amended the drug guideline so that offenses involving crack  
7 cocaine were generally lowered by two levels. U.S.S.G. § 2D1.1, comment. (n.10)  
8 (Amendments 706, 711, and 715). Consequently, the district court found his base offense level  
9 had been reduced by two levels and his guideline range became 262-327 months. The district  
10 court again sentenced Castaneda to the low end of the range, 262 months. Docket 180.

11 4. In 2017, the court later granted Castaneda's motion to reduce his sentence from  
12 262 to 240 months under 18 U.S.C. § 3582(c)(2) and Amendment 782. While his guideline  
13 range would have been reduced to 168-210 months by applying Amendment 782, he was subject  
14 to a 240-month mandatory minimum, which became the new guideline range.

15 5. On December 21, 2018, the First Step Act was enacted. First Step Act of 2018, S.  
16 756, Pub. Law 115-391. Section 404 of the Act states that the sentencing court may, upon  
17 motion of the defendant, an attorney for the government, or the court, "impose a reduced  
18 sentence as if section 2 and 3 of the Fair Sentencing Act of 2010 . . . were in effect at the time the  
19 covered offense was committed." The Fair Sentencing Act of 2010 raised the threshold to  
20 trigger the 10-year mandatory minimum in cocaine base trafficking offenses from 50 to 280  
21 grams.

22 6. The parties agree that defendant is eligible for a reduction of his sentence under  
23 Section 404 of the First Step Act. Specifically, had sections 2 and 3 of the Fair Sentencing Act  
24 of 2010 been in effect at the time the offense was committed, defendant would not have been  
25 subject to a statutory sentencing range of 20 years to life. 21 U.S.C. § 841(b)(1)(B)(A) (2010).  
26 Rather, he would have been subject to a statutory range of 10 years to life. 21 U.S.C.  
27 § 841(b)(1)(B) (2010). Moreover, his guideline range is reduced from the 240-month mandatory  
28 minimum to 168-210 months.

1           7.       The parties have also been informed that Castaneda is on a list compiled by the  
2 U.S. Sentencing Commission of Eastern District of California defendants who are eligible for a  
3 sentence reduction under Section 404 of the First Step Act.

4           8.       Accordingly, the parties request this Court issue the order lodged herewith  
5 reducing Castaneda's sentence to 168 months imprisonment, all other terms of the judgment  
6 remaining unchanged.

7           9.       The undersigned counsel for defendant affirms that he has discussed this  
8 stipulation with defendant and that defendant has authorized counsel to enter into this agreement  
9 on his behalf. The undersigned counsel also affirms that, so long as the Court accepts this  
10 stipulation, defendant waives his right to be present when the Court reduces his sentence, to any  
11 hearing, and to any findings to which he might be entitled. The defendant has so indicated, and  
12 counsel joins in that waiver.

13 Respectfully submitted,

14 Dated: February 12, 2019

Dated: February 12, 2019

15 MCGREGOR SCOTT  
16 United States Attorney

17 /s/ Jason Hitt  
18 JASON HITT  
Assistant U.S. Attorney

/s/ John Balazs  
JOHN BALAZS  
Attorney at Law  
  
Attorney for Defendant  
FRANCISCO MEDINA CASTANEDA

19 Attorney for Plaintiff  
20 UNITED STATES OF AMERICA

1 **ORDER**

2 This matter came before the Court on the stipulated motion of the defendant for reduction  
3 of sentence pursuant to the First Step Act, P.L. 115-391.

4 The parties agree, and the Court finds, that Mr. Castaneda is entitled to the benefit of  
5 Section 404 of the First Step Act, resulting in an amended guideline range of 168 to 210 months.

6 IT IS HEREBY ORDERED that the term of imprisonment imposed in in this case is  
7 reduced to 168 months.

8 IT IS FURTHER ORDERED that all other terms and provisions of the original judgment  
9 remain in effect. The clerk shall forthwith prepare an amended judgment reflecting the above  
10 reduction in sentence, and shall serve certified copies of the amended judgment on the United  
11 States Bureau of Prisons and the United States Probation Office.

12 Dated: February 13, 2019

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14 WILLIAM B. SHUBB

15 UNITED STATES DISTRICT JUDGE  
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